

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in United Kingdom on 2/19/02, 2/19/01, and 8/1/01. It is noted, however, that applicant has not filed certified copies of the foreign application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38,39,41,69 and 70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Re claim 41, Applicant's use of terminology such as "preferably" (line 5) renders the claim indefinite since the metes and bounds cannot be readily ascertained; use of such term should be avoided.

5. Re claims 38 and 39, Applicant's use of terminology such as "may be" (claim 38, lines 5 and 6; and claim 39, lines 3 and 4) renders the claim indefinite since the metes and bounds cannot be readily ascertained; use of such term should be avoided.

6.

7. Re claims 69 and 70, Applicant's use of terminology such as "may be" (claim 69, lines 3 and 5; and claim 70, lines 3 and 4) renders the claim indefinite since the metes and bounds cannot be readily ascertained; use of such term should be avoided.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 33-37, 40, 64-68 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizrachy et al. (3,853,121) in view of Pickup et al. ("The effect of cycloid vibration on leg blood flow and ulcer pain, July 1978) and Lievens ("The Use of Cycloidal Vibrations Therapy on the Blood and Lymphocirculation and on Wound Healing, 1979).

10. Mizrachy discloses a device having a drive unit 20 and a pad 11 (fig. 3) and a method of using the device for treatment of ulcers, lymphoedema (by increasing circulation of the blood, col. 4, lines 63-65), which method comprises the step of subjecting the body to mechanical vibrations (col. 4, line 29-32) for an effective period of time and wherein pressure is applied to the body area (via straps 13/14, fig. 3) by the device subjecting the body to the mechanical

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vibration. Mizrachy teaches a method comprises the step of subjecting the body in the area of the ulcer or lymphoedema, to a mechanical vibrations (by means of 20, fig. 3) concurrently with the application of pressure (by means of pad 11 and straps 13 and 14 as shown in fig. 3) to the same area (a leg as shown in fig. 3) for an effective period of time. Mizrachy is silent regarding the cycloid vibrations having components in three orthogonal directions, a frequency of between 15 and 75 Hz and an amplitude of between 0.1 and 0.5 mm. However, Pickup et al. teaches that relief of pain and improvement of ulcer treatment have been reported when cycloid vibration therapy (CVT) was applied to a number patients at frequency of 50-60 Hz for 30 minutes, three times a day. Furthermore, Lievens also teaches cycloidal vibration therapy for improving blood and lymph circulation, wherein CVT is provided with a vibration device having a three-dimensional cycloidal movement along three orthogonal directions X axis, Y axis and Z axis (see fig. 1 on p. 2) and an amplitude of +0.5 – 1 mm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to operate the device in the Mizrachy's reference, so that the device would provide a cycloid vibration therapy having components in three orthogonal directions at a frequency of between 15 and 75 Hz and an amplitude of between 0.1 and 0.5 mm for 30 minutes, three times a day, as suggested and taught by Pickup et al. and Lievens, for the purpose of providing pain relief, improving ulcer treatment and enhancing blood circulation.

Response to Arguments

Applicant's arguments filed 3/28/08 have been fully considered but they are not persuasive. In regard to Applicant's repeated argument that none of Mizrachy et al., Pickup et al., and Lievens suggest curing lymphodema by the application of vibrations, Applicant has

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modified his position to emphasize that vibrations are applied for the purpose of pain relief and enhancing blood circulation and not for the purpose or curing. This teaching is further acknowledged by Applicant in the paragraph bridging pages 13 and 14 (see remarks filed 3/28/08). Furthermore, Applicant's arguments appear to be narrower than that is claimed since curing lymphodema is not claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Steven O. Douglas/ whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven O. Douglas/
Primary Examiner
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SD
4/10/08